

## 2. Vertical Agreements

- *European Commission Guidelines on Vertical Restraints - 2010/C 130/01*
- **Vertical restraints** = agreements or concerted practices entered into between two or more companies each of which operates, for the purposes of the agreement, at a **different level of the production or distribution chain**, and relating to the **conditions under which the parties may purchase, sell or resell certain goods or services**.
- Vertical restraints are generally less harmful than horizontal restraints and may provide substantial scope for efficiencies.
- In most cases, competition concerns can only arise if there is **insufficient competition at one or more levels of trade**.



# European Commission Guidelines On Vertical Restraints 2015

**Viktoria H S E Robertson**



## **European Commission Guidelines On Vertical Restraints 2015:**

**Regulating Vertical Agreements** Maria Fernanda Caporale Madi, 2020-10-09 Vertical agreements represent a variety of supply and distribution contracts involving different market players such as suppliers of diverse inputs manufacturers distributors and retailers They gain particular significance in a global economy where technological advances are dynamic and are changing all the time Such agreements are signed among businesspeople on a daily basis and antitrust experts around the world are often asked to advise on whether they have any negative impact on competition or whether they infringe antitrust law Taking into consideration the complex economic impacts of these vertical alliances and the different market conditions that firms face in a wide variety of situations the author proposes an in depth examination of the following topics resale price fixing geo blocking clauses exclusive and selective distribution systems the concept of economic efficiency in the context of vertical restraints self assessment of potential anticompetitive effects and antitrust risks ex post control of vertical restraints digital economies and its policy impact alternative enforcement models under various institutional frameworks the role and influence of political pressure groups The book offers very constructive theoretical and political insights at the frontier between the disciplines of Economics and Law By comparing two world s leading antitrust jurisdictions this book explores the lessons to be learned from the legal rules in the European Union and in Brazil considering their promises and drawbacks and formulates policy recommendations

**EU Soft Law in the Member States** Mariolina Eliantonio, Emilia Korkea-aho, Oana Stefan, 2021-03-25 This volume analyses for the first time in European studies the impact that non legally binding material otherwise known as soft law has on national courts and administration The study is founded on empirical work undertaken by the European Network of Soft Law Research SoLaR across ten EU Member States in competition policy financial regulation environmental protection and social policy The book demonstrates that soft law is taken into consideration at the national level and it clarifies the extent to which soft law can have legal and practical effects for individuals and national authorities The national case studies highlight the points of convergence or divergence in the way in which judges and administrators approach soft law while reflecting on the reasons for and consequences of various national practices A series of horizontal studies connect this research to the rich literature on new modes of governance by revisiting traditional theories on soft law and by reflecting on the potential of such instruments to undermine or to foster rule of law values

**Digital Competition Law in Europe** Marc Wiggers, Robin Struijlaart, Joost Dibbitts, 2023-07-14 Digital competition a term and concept that has risen to the forefront of competition law may be viewed as both promising and cautionary on the one hand it brings the promises of increased speed efficiency and objectivity and on the other it entails potential pitfalls such as hard to identify pathways to unfair pricing dominant positions and their potential abuse restriction of choice and abuse of personal data Accordingly jurisdictions around the world are taking measures to deal with the phenomenon In this concise but thoroughly researched book both informative and practical lawyers from two prominent

firms with specialised digital competition teams take stock and examine the state of digital competition in the enforcement practices of six competition authorities in Europe most of these forerunners in the field of digital competition policy and enforcement The competition authorities surveyed are those of the European Union the United Kingdom France Germany the Netherlands and Belgium For each an overview spanning the period from 2012 to mid 2022 but including as many landmark cases as possible up to and including December 2022 includes not only landmark cases in which digital technologies have had a significant impact on the competition law outcome but also guidance documents such as speeches policy statements industry surveys and research reports Activities and enforcement practices of the various authorities include the following and more degree of activity focus of the activity enforcement styles enforcement instruments visible effectiveness of enforcement and important insights and outlooks Each overview contains separate chapters on cartel prohibition the prohibition of abuse of a dominant position and merger control Additional chapters partially written by guest authors who are all without a doubt true thought leaders Tristan Byrne Giuseppe Colangelo Ai Deng Teodora Groza Daniel M ndrescu Wolf Sauter Thibault Schr pel and Gareth Shier evaluate the similarities and differences in the enforcement practices and the positive and negative effects of digital competition in the jurisdictions investigated the economic context the most important game changers and a concluding chapter offers recommendations An indispensable guide to quickly and accessibly acquiring in depth knowledge of competition law in the digital sector this matchless volume is a must read for any practitioner or academic who encounters competition law related to digital markets The dilemmas and challenges of the new competition law reality which is here already like it or not are clearly explained here for the benefit of regulators academics policymakers judges in house counsel and lawyers specialising in competition law and intellectual property law      **Comparative**

**Competition Law** Thomas Weck,Masako Wakui,2023-12-04 This book provides a comparative overview of the rules of EU US and Japanese law on competition After an overview of their history and the underlying economic issues it compares perspectives on cartels and other agreements restraining competition ancillary agreements R single firm conduct abuse of dominant market power monopolization general procedural law and merger control and state measures such as regulation and subsidies In each case the presentation of the legal system is supplemented by examples from the case law With a focus on the protection of competition in digital markets new regulatory approaches e g the EU Digital Markets Act and comparable US regulatory initiatives are evaluated and current legal developments in other jurisdictions are addressed

*European Film and Television Co-production* Julia Hammett-Jamart,Petar Mitric,Eva Novrup Redvall,2019-01-28 This volume offers an up to date analysis of film and television co production in Europe It brings together the voices of policy professionals industry practitioners and media industry scholars to trace the contours of a complex practice that is of increasing significance in the global media landscape Analysis of the latest production statistics sits alongside interviews with producers and the critical evaluation of public film policies The volume incorporates contributions from representatives

of major public institutions Eurimages the European Audiovisual Observatory and the European Commission and private production companies including the pan European Zentropa Group Policy issues are elucidated through case studies including the Oscar winning feature film *Ida* the BAFTA winning *I am not a Witch* and the Danish television serial *Ride Upon the Storm* Scholarly articles span co development co distribution and regional cinemas as well as emerging policy challenges such as the digital single market The combination of qualitative and quantitative approaches and the juxtaposition of industry and scholarly voices provides a unique perspective on European co production that is information rich complex and stimulating making this volume a valuable companion for students scholars and industry professionals

*Competition, Data and Privacy in the Digital Economy* Maria Wasastjerna, 2020-07-16 Increasingly we conduct our lives online and in doing so we grant access to our personal information The crucial feedstock of the world economy thus generated the commercialization and exploitation of personal data and the intrusion of digital privacy it entails has built an imposing edifice of market power As we enter the third decade of the 21st century this detailed exploration of the interlinkage between competition and data privacy takes a critical look at competition policy to evaluate whether the system in its current form and with the existing approach is capable of tackling the challenges raised by the role of personal data in the shift from an offline to an online economy Challenging the commonplace assumption that privacy has little or no role and relevance in competition law the author's penetrating analysis accomplishes the following and more provides an in depth understanding of the intersection of competition and privacy in the data driven economy surveys legal policy developments on the role of privacy in competition law underlines the importance of non price parameters in competition such as consumer choice clearly explains why and how competition law can protect privacy among its policy objectives and addresses challenges in measuring the intangible harm of digital privacy violation in assessing abuse of market power Recent case law in Europe and elsewhere a revealing comparison between relevant European Union EU and United States US practice the expanded role of the EU's Competition Commissioner and the likely impact of such phenomena as the coronavirus pandemic are all drawn into the book's remit In her analysis of the growing privacy dimension in competition policy the author examines the topic from a broad perspective that includes societal political economic historical and cultural elements Her insightful multidimensional and value based review will prove of immeasurable value to practitioners academics policymakers and enforcers in its identification of implications for business practice as we go forward

**Economic Crime** Mark Button, Branislav Hock, David Shepherd, 2022-04-24 This book is the first attempt to establish economic crime as a new sub discipline within criminology Fraud corruption bribery money laundering price fixing cartels and intellectual property crimes pursued typically for financial and professional gain have devastating consequences for the prosperity of economic life While most police forces in the UK and the USA have an economic crime department and many European bodies such as Europol use the term and develop strategies and structures to deal with it it is yet to gain traction as a widely used term in the academic community

Economic Crime From Conception to Response aims to change that and covers definitions of the key premises of economic crime as the academic sub discipline within criminology an overview of the key research on each of the crimes associated with economic crime public private and global responses to economic crime across its different forms and sectors of the economy both within the UK and globally This book is an essential resource for students academics and practitioners engaged with aspects of economic crime as well as the related areas of financial crime white collar crime and crimes of the powerful

Handbook Industry 4.0 Walter Frenz,2022-06-22 The handbook presents an overview of Industry 4 0 and offers solutions for important practical questions The law and its current challenges regarding data assignment who owns the data EU guidelines data security data protection General Data Protection Regulation cyberattacks competition law right to access vs monopolists permissible and prohibited exchanges of information possible collaborations is the point of departure In turn the book explores peculiarities in specific areas of Industry 4 0 Internet of Production mechanical engineering artificial intelligence electromobility autonomous driving traffic medical science construction energy industry etc The book s closing section addresses general developments in management the digital transformation of companies and the world of work and ethical questions

Competition Law of the European Union Van Bael & Bellis,2021-03-01 This new Sixth Edition of a major work by the well known competition law team at Van Bael the extensive case law in the field of cartels including in relation to cartel facilitation and price signalling important Article 102 rulings concerning pricing and exclusivity including the Post Danmark and Intel judgments as well as standard essential patents the current block exemption and guidelines applicable to vertical agreements including those applicable to the motor vehicle sector developments concerning online distribution including the Pierre Fabre and Coty rulings the current guidelines and block exemptions in the field of horizontal cooperation including the treatment of information exchange the evolution of EU merger control including court defeats suffered by the Commission and the case law on procedural infringements the burgeoning case law related to pharmaceuticals including concerning reverse payment settlements the current technology transfer guidelines and block exemption procedural developments including in relation to the right to privacy access to file parental liability fining methodology inability to pay and hybrid settlements the implementation of the Damages Directive and the first interpretative rulings As a comprehensive up to date and above all practical analysis of the EU competition rules as developed by the Commission and EU Courts this authoritative new edition of a classic work stands alone Like its predecessors it will be of immeasurable value to both business persons and their legal advisers

Competition Anna Olimpia,Ricardo Motta,2023-11-08 The proliferation of economic agents with market power especially those operating in the digital economy and which add unprecedented dynamic and complexity to it has sparked heated discussions among academics professionals and competition authorities around the world regarding the effects of their actions on the market and consumers Unlike classic cartels a conduct that has been treated as per se unlawful in Brazil regardless of the production of effects under Brazilian competition law unilateral conduct

falls into a gray area encompassing different practices with different effects on the market. In this sense, examples of unilateral conduct that may be considered anticompetitive are numerous, both under old and new labels: predatory pricing, abusive pricing, resale price maintenance, imposition of exclusivities, parity clauses, price discrimination, discrimination of commercial conditions, self-preferencing, price squeeze, refusal to deal, among others. The competition analysis of such conduct, which may occur in traditional brick and mortar markets as well as in digital environments involving various platforms and arrangements like blockchain for the purpose of a decision by the authority on whether they constitute anticompetitive practices or not, involves a highly complex analysis of various factors. The analysis must consider the presence of dominant positions, real or potential detrimental effects on competition, efficiencies, justifications, economic rationale for the conduct, and for some schools of thought, a weighing of anticompetitive effects and efficiencies. Due to the complexity, specificities, and dynamism of unilateral practices, especially in digital markets or hybrid digital platforms, there is a question of whether the instruments currently available to competition authorities are sufficient to understand and rule on such practices. In this regard, the analysis of various cases in relatively recent jurisprudence shows a pursuit for new forms of interpretation and application and even updates to the methodologies of analysis and of applicable legislation in order to strike a balance between intervention to curb anticompetitive practices to the extent necessary for protecting competition without resulting in undue interference in the involved markets or in disincentives to innovation. Historically, discussions about exclusivity clauses and resale price maintenance have been central in this type of investigation, but digital platforms are effectively changing this landscape, giving rise to discussions on new types of conduct or more sophisticated forms of implementing traditional types of conduct, which have become possible or potentially more serious through new technologies, the broad reach of platforms, the collection of massive data, and the international nature of the largest players in these markets. Notions of relevant market, theories of harm, and standards of consumer welfare or protection traditionally adopted by antitrust authorities are under study and may be revised. The heterogeneity of legal systems in different jurisdictions is another complicating factor for national authorities in the analysis of conduct practiced by companies with market power internationally. All these analyses are present in the 25 articles written for this publication by IBRAC. We have articles focused on traditional methods of analysis in traditional markets as well as articles addressing new trends and recent discussions in digital markets and platforms. In times of pandemic and economic crisis, as expected, approaches to prices and pricing strategies are recurring themes in the works compiled here.

*Commercial Law* M. A. Clarke, R. J. A. Hooley, R. J. C. Munday, L. S. Sealy, P. G. Turner, A. M. Tettenborn, 2017. *Commercial Law Text Cases and Materials* provides students with an extensive and valuable range of extracts from key cases and writings in this most dynamic field of law. The authors' expert commentary and questions enliven each topic while emphasizing the practical application of the law in its business context. Len Sealy and Richard Hooley have been joined by four renowned experts in the field for the preparation of this edition. The

authors have captured the essence of this fascinating topic at a time of significant legislative regulatory and political change

**EU Regulation of E-Commerce** Arno R. Lodder, Andrew D. Murray, 2022-11-25 Significantly revised and expanded this important book addresses the key pieces of EU legislation in the field of e commerce including on consumer rights copyright electronic identification open internet access electronic payments competition law and digital content Principles and Practice in EU Sports Law Stephen Weatherill, 2017 Principles Practice in EU Sports Law provides an overview of EU Sports Law In particular it assesses sporting bodies claims for legal autonomy from the ordinary law of states and international organisations Sporting bodies insist on using their expertise to create a set of globally applicable rules which should not be deviated from irrespective of the territory on which they are applied The application of the *lex sportiva* which refers to the conventions that define a sport s operation is analysed as well as how this is used in claims for sporting autonomy The *lex sportiva* may generate conflicts with a state or international institution such as the European Union and the motives behind sporting bodies claims in favour of the *lex sportiva* s autonomy may be motivated by concern to uphold its integrity or to preserve commercial gain Stephen Weatherill s text underlines the tense relationship between *lex sportiva* and national and regional jurisdictions which is exemplified with specific focus on the EU The development of EU sports law and its controversies are detailed reinforced by the example of relevant legal principles in the context of the practice of sports law The intellectual heart of the text endeavours to make a normative assessment of the strength of claims in favour of sporting autonomy and the comparison between different jurisdictions and sports is evident Furthermore the enduring dilemma facing sports lawyers running throughout the text is whether sport should be regarded as special and in turn how far its special character should be granted legal recognition *Competition Law in Cyprus* Achilles C. Emilianides, Anastasios A. Antoniou, 2021-09-20 Derived from the renowned multi volume International Encyclopaedia of Laws this practical analysis of competition law and its interpretation in Cyprus covers every aspect of the subject the various forms of restrictive agreements and abuse of dominance prohibited by law and the rules on merger control tests of illegality filing obligations administrative investigation and enforcement procedures civil remedies and criminal penalties and raising challenges to administrative decisions Lawyers who handle transnational commercial transactions will appreciate the explanation of fundamental differences in procedure from one legal system to another as well as the international aspects of competition law Throughout the book the treatment emphasizes enforcement with relevant cases analysed where appropriate An informative introductory chapter provides detailed information on the economic legal and historical background including national and international sources scope of application an overview of substantive provisions and main notions and a comprehensive description of the enforcement system including private enforcement The book proceeds to a detailed analysis of substantive prohibitions including cartels and other horizontal agreements vertical restraints the various types of abusive conduct by the dominant firms and the appraisal of concentrations and then goes on to the administrative



enforcement of competition law with a focus on the antitrust authorities powers of investigation and the right of defence of suspected companies This part also covers voluntary merger notifications and clearance decisions as well as a description of the judicial review of administrative decisions Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable time saving tool for business and legal professionals alike Lawyers representing parties with interests in Cyprus will welcome this very useful guide and academics and researchers will appreciate its value in the study of international and comparative competition law

**Vertical Restraints in the Digital Economy** Adina Claici, Denis Waelbroeck, 2021-05-21 Vertical agreements between undertakings at the various levels of a supply chain have long been seen as a fundamental focus for antitrust legislation such as the European Union's Vertical Block Exemption Regulation VBER It goes without saying that such issues are particularly prevalent in digital markets This authoritative commentary analyses the main restrictions in vertical agreements emphasising the numerous new and contentious issues arising in the context of Internet distribution It offers both legal and economic perspectives as well as examines enforcement and possible changes to the legislation The contributors leading competition authority officials lawyers economists and academics provide in depth discussions of topics that have emerged as areas for conscious policy choices including the following restrictions of online sales price parity obligations resale price maintenance the duration of non compete obligations sustainability agreements geo blocking practices and restraint of trade in pharmaceuticals The contributions have emerged from the 2020 conference of the Global Competition Law Centre at the College of Europe in the context of the currently ongoing review of the VBER and vertical guidelines With its multidisciplinary approach highlighting the efficiencies and harms caused by the restrictions at stake this important book clearly shows how law and practice apply to specific issues relating to digital markets and how the law is likely to change in the near future It will be of immeasurable value to lawyers and officials concerned with European competition law and academics in the field

**Antitrust Analysis of Online Sales Platforms & Copyright Limitations and Exceptions** Bruce Kilpatrick, Pierre Kobel, Pranvera

Këllezi, 2018-07-03 This book gathers international and national reports from across the globe on key questions in the field of antitrust and intellectual property The first part discusses the application of competition law to online sales platforms which is increasingly a focus for anti trust authorities around the world A detailed international report explores which are the major challenges for competition law generated by the growth of online platforms It provides an excellent comparative study of this complex and challenging subject The second part of the book gathers contributions from various jurisdictions on the topic To what extent do current exclusions and limitations to copyright strike a fair balance between the rights of owners and fair use by private individuals and others This section presents an international report which offers an unparalleled comparative analysis of this topic bringing together common themes and contrasting the various national provisions dealing with exceptions to copyright amongst other things The book also includes the resolutions passed by the General Assembly of the

International League of Competition Law LIDC following a debate on each of these topics which include proposed solutions and recommendations The LIDC is a long standing international association that focuses on the interface between competition law and intellectual property law including unfair competition issues

**International Licensing Agreements** Michala Meiselles, Hugo Wharton, 2018-10-02 Like any contract an international licensing agreement spells out the rights and obligations of the contracting parties manages potential risks and supplies a contingency plan for each party in the event the contractual relationship breaks down However international licensing of intellectual property software or technology confronts the contracting parties with its own distinct challenges When planning drafting and negotiating such agreements it is imperative to know exactly what core issues need to be addressed This book provides this know how in an easy to use clear and concise fashion This expert guide to the complex world of international licensing agreements brings together all the essential materials needed when dealing with such agreements and covers the following business models that may be used by the contracting parties standard provisions encountered in an array of international licensing agreements analysis of the key clauses in various international licensing agreements inter alia trademark software franchise and technology licences with provisions as affected by jurisdiction effect of competition law in a variety of jurisdictions ensuring trademark protection at both national and international levels clear explanation of key franchising terminology and disclosure rules and effect of international dispute resolution rules in a range of jurisdictions Alongside detailed contract analysis the book details numerous case studies from an array of industries with detailed commentary Practitioners operating within or representing medium to large firms who normally have to prepare or provide advice on international licence arrangements will quickly find this reference material indispensable The book's thorough analysis of this complex area will also be welcomed by professionals working for universities industry interest groups government departments and international organisations

**Remedies in EU Competition Law** Damien Gerard, Assimakis Komninos, 2020-07-10 By their nature remedies are central to competition law enforcement and represent the yardstick against which the efficiency of the overall system can be measured Yet very rarely have remedies been treated in a horizontal and comprehensive manner from the combined perspectives of substance process and policy The present volume developed in partnership with the College of Europe's Global Competition Law Centre GCLC provides coherent practical and authoritative commentaries by leading experts from the GCLC's incomparable network The contributions originally presented at the 2019 GCLC annual conference examine remedies to assess the overall effectiveness of competition law enforcement in merger antitrust and State aid matters The overall topic is presented under five headings objectives and limitations of remedies types of remedies in competition law enforcement implementation and process ex post assessment of remedies and policy lessons and national and international approaches The high profile and wide ranging group of authors includes the Director General of the European Commission's competition department lawyers from major international firms and well known economists and academics specialising in

competition law With a sharp focus on how to make competition rules work well in today's digital environment this systematic and coherent analysis illuminates an issue that we need to fully grasp and understand in order to make sense of competition policy law and enforcement in the years and decades to come **Competition Law's Innovation Factor**

Viktoria H S E Robertson, 2020-02-06 In recent years market definition has come under attack as an analytical tool of competition law Scholars have increasingly questioned its usefulness and feasibility That criticism comes into sharper relief in dynamic innovation driven markets which do not correspond to the static markets on which the concept of the relevant market was modelled This book explores that controversy from a comparative legal perspective taking into account both EU competition and US antitrust law It examines the manifold ways in which courts and competition authorities in the EU and US have factored innovation related considerations into market delineation covering innovative product markets product differentiation future markets issues going beyond market definition proper such as innovation competition innovation markets and potential competition intellectual property rights innovative aftermarkets and multi sided platforms This book finds that going forward the role of market definition in dynamic contexts needs to focus on its function of market characterisation rather than on the assessment of market power **Patent Settlements in the Pharmaceutical Industry**

**under US Antitrust and EU Competition Law** Amalia Athanasiadou, 2018-08-14 Reverse payment settlements or pay for delay agreements between originators and generic drug manufacturers create heated debates regarding the balance between competition and intellectual property law These settlements touch upon sensitive issues such as timely generic entry and access to affordable pharmaceuticals and also the need to preserve innovation incentives for originators and to strengthen the pipeline of life saving pharmaceuticals This book is one of the first to critically and comparatively analyse how such patent settlements and various other strategies employed by the pharmaceutical industry are scrutinised by both United States US and European courts and enforcement authorities and to discuss the applicable legal tests and the main criteria used for their assessment The book's ultimate objective is to provide guidance to the pharmaceutical industry regarding the types of patent settlements strategies and conduct which may be problematic from US antitrust and European Union EU competition law perspectives and to assist practitioners in structuring settlements which are both efficient and compliant To this end an exhaustive legal analysis of some of the most controversial issues regarding pharmaceutical patent settlements is provided including the lengthy split among US Circuit Courts on the issue of pay for delay settlements its resolution by the US Supreme Court in *FTC v Actavis* and subsequent jurisprudence the decision of *Lundbeck v Commission* by the European General Court and the *Servier* decision of the European Commission the *Roche Novartis* decision of the European Court of Justice and the most important decisions by National Competition Authorities on pharma patent settlements in the EU an overview of other types of strategies such as product hopping and product reformulations no authorised generic commitments problematic side deals mechanisms affecting generic substitution the rejection of the scope of the patent test in

both the US and the EU and the balancing of patent law and antitrust law considerations in the prevailing applicable tests the benefits of settlements and the main criteria for assessing their legitimacy under US antitrust and EU competition law The analysis provides concrete examples of both illegitimate and legitimate settlements and strategies emphasising on conduct that falls within a grey zone and on the circumstances and criteria under which such conduct could be deemed problematic from an antitrust perspective This book will serve as a valuable guide for pharmaceutical companies wishing to minimise the risk of engaging in conduct that could potentially infringe US antitrust and EU competition law It further aims to save courts and enforcement agencies and also practitioners and academics considerable time and resources by providing an exhaustive analysis of the relevant caselaw with the ultimate goal to increase legal certainty on the most controversial aspects of patent settlements in the pharmaceutical industry

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